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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/657,118  | 09/09/2003  | Hiroyuki Yokoi       | 242232US0CONT       | 9226             |
| 22850   | 7590        | 06/06/2006           | EXAMINER            |                  |
| OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.<br>1940 DUKE STREET<br>ALEXANDRIA, VA 22314 |             |                      | GABEL, GAILENE      |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |

1641

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-11, 15, and 16, drawn to method of measuring an analyte contained in a heterogeneous sample mixture and kit therefor, classified in class 436, subclass 172, for example.
  - II. Claims 12-16, drawn to method of measuring an analyte contained in a sample subjected to dilution and separation procedures and kit therefor, classified in class 435, subclass 7.1, for example.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are independent and distinct. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation and different effects in that Invention I incorporates all reagents with sample to form a reaction system that does not require separation of complexes to measure amount of analyte whereas Invention II dilutes the sample, incorporates all reagents with sample to form a reaction system which is subsequently separated in order to measure amount of analyte present in the sample.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction

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for examination purposes as indicated is proper. Furthermore, because the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper. Literature search for each method is distinct since the structural requirements of each invention are different. While searches would be expected to overlap, there is no reason to expect the searches to be coextensive.

2. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gailene R. Gabel whose telephone number is (571) 272-0820. The examiner can normally be reached on Monday, Tuesday, Thursday from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long V. Le can be reached on (571) 272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gailene R. Gabel  
Patent Examiner  
Art Unit 1641  
May 26, 2006

A handwritten signature in black ink, appearing to read 'G. Gabel', is written over the typed name and date.